

RENT ESCROW INSTRUCTIONS

Minnesota Statutes § 504B.385

Please read the complete instructions before you begin. If you do not understand these instructions, you may need to contact an attorney.

IMPORTANT INFORMATION

- A rent escrow action is a legal way for a residential tenant to bring a claim that requires the landlord to make needed repairs or to comply with the terms of the lease.
- The court can only hear cases involving residential property located in its own county.
- A tenant cannot be evicted on the basis of demanding repairs, calling a Housing Inspector or starting a rent escrow action. The tenant can be evicted for not paying the rent due to the landlord up to the time of filing the rent escrow action or not depositing the full amount with the court at the time the action is filed. The landlord may allege that there are other reasons the tenant should be evicted.
- The tenant must reside in the problem property. The tenant cannot file a rent escrow action after they have moved.
- The tenant can ask the court to order the landlord to make repairs, reduce the rent until repairs are complete, refund a portion of past rent when repairs were not made and other relief.

One of the following must have occurred before the tenant may file:

- The tenant must provide the landlord with written notice listing the needed repairs or describing what part of the lease the landlord has not completed. The notice must have been personally delivered to the landlord or mailed to the place where rent is usually paid. If it has been at least 14 days since the tenant provided the landlord with a written notice, then the tenant may file.
- A local housing inspector completed a code violation report and the deadline the inspector gave the landlord to make repairs has passed without the repairs being completed. The tenant must ask the inspector for a copy of the report.
- A local housing inspector completed a code violation report and the tenant believes the inspector gave the landlord too much time to complete the repairs. The tenant must ask the inspector for a copy of the report.

REQUIREMENTS TO FILE A RENT ESCROW

- Complete an Affidavit of Rent Escrow (available at the Court Administrator/Housing Court office or online at www.mncourts.gov/forms).
- Attach a copy of the Code Inspection Report by the inspector OR the tenant's letter to the landlord requesting repairs (Case can be filed if the tenant does not have a copy).
- Pay the filing fee or obtain an order from the court waiving the fee.
- Deposit any rent that is owed with the court. Personal checks are not accepted. Cash or cashier's check is acceptable. Check with the Court Administrator/Housing Court for acceptable forms of payment.

Helpful materials may be found at your public county law library. For a directory, see <http://www.lawlibrary.state.mn.us/cllppubdir.rtf> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

COMPLETING THE AFFIDAVIT OF RENT ESCROW

Remember as you answer the questions on the affidavit, you are under oath and must tell the truth.

Caption of the Affidavit:

- The tenant(s) is the plaintiff.
- The landlord is the defendant. The landlord may be a corporation or an individual. Be sure to list the landlord, not their agent.

Body of the Affidavit:

1. Fill in your complete address including your apartment number, city, state, ZIP, county and phone number including area code.
2. Fill in the landlord's name, complete address, city, state, ZIP and phone number including area code.
3. If the property manager is different from the landlord, fill in their name, address, city, state, ZIP and phone number including area code.
4. List all problems or violations with your housing that have NOT been repair. Attach additional pages if needed.
5. Give an estimate of how much it would cost to repair the problems or violations listed in #4. If you don't know, contact someone to give you a professional estimate.
6. If the inspector issued a code violation report, complete "a". If you mailed or personally delivered a letter requesting repairs, complete "b".
7. Fill in the amount of your monthly rent and when it is due. If rent is paid in full to date, check "a". If rent is due, check "b" and be prepared to deposit that amount with the court. Check with Court Administrator/Housing Court for acceptable forms of payment.
8. If there is something you would like the court to do, indicate by checking the appropriate box(es). You may leave this question blank.
9. Read and understand

Signing the Affidavit:

- By signing the Affidavit under penalty of perjury, you are stating that the information in the document is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth.
- Fill in today's date
- Print your name, address, city, state, ZIP and phone number including area code.

GETTING A COURT DATE

- Once your Affidavit has been filed with the court, the clerk will prepare a Notice of Hearing for Rent Escrow and attach a copy of the Affidavit of Rent Escrow and either the code violation report or your letter to the landlord requesting repairs.
- A court date will be set within 10 to 14 days after the rent is deposited with the court unless there is a pending eviction action. If so, both the eviction and the rent escrow will be set for the same date (Minn. Stat. § 504B.385, subd. 8).

NOTIFYING (SERVING) THE LANDLORD OF THE COURT DATE (Minn. Stat. § 504B.385, subd. 5)

Cost of Repairs is \$15,000 or Less:

- The court clerk will serve the landlord at the address provided by the tenant. Service will be by first class mail.

Cost of Repairs is More than \$15,000:

- The tenant is responsible for arranging for personal service on the landlord(s). Service may be done by any one 18 years of age or older who is not a party to the case. The tenant can not serve the landlord. Service must be made at least five days but not more

than ten days before the date of the hearing. The person doing the service must complete an Affidavit of Personal Service. The tenant must file this affidavit with the court at least three days prior to the court date.

AT THE HEARING

Once the case is decided, the judicial officer will issue a Decision and Order. The Decision and Order will address who is to receive the rent that is deposited with the court. The court may order a portion to the landlord and a portion to the tenant or may order all the monies to one party. The court may schedule a future date to ensure the landlord has complied with its court.

IF THE REPAIRS ARE MADE PRIOR TO THE COURT DATE

The tenant notifies the court in writing that the needed repairs have been made, the clerk will release the rent to the landlord. The hearing will be cancelled. If the tenant and landlord enter into a written agreement signed by all parties distributing the rent between them, the clerk must release the rent in accordance with the written agreement.

WHAT CAN HAPPEN IF RENT DUE IS NOT DEPOSITED WITH THE COURT (Minn. Stat. § 504B.385, subd. 2)

The landlord may file a Counterclaim for Possession of the Premises or a separate eviction action if the tenant did not or does not deposit all rent due.